

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 436 - HB 1623

March 27, 2009

SUMMARY OF BILL: Authorizes the testimony of a forensic interviewer as a witness in cases involving aggravated sexual battery, sexual battery, rape of a child, sexual battery by an authority figure, soliciting sexual exploitation of a minor, aggravated rape of a child, or incest when the victim is less than 13 years of age. Applies only if the forensic interviewer has interviewed the victim and the victim has previously testified at trial or is unavailable to testify at trial. Defines forensic interviewer.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$198,500/Incarceration*

Assumptions:

- The Department of Correction (DOC) estimates an increase in admissions at the offense class rather than as an attempt to commit the offense. DOC assumes one new admission every two years for rape of a child, one aggravated sexual battery admission, one incest admission, one sexual battery, one admission for sexual exploitation of a minor every two years, and one admission for sexual battery by an authority figure.
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. According to DOC, the average post-conviction time served for a Class E felony is 1.63 years, 2.43 years for a Class D, 3.59 years for a Class C, 6.17 years for a Class B, and 14.86 years for a Class A.
- The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The cost per offender at 2.43 years is \$52,995.96 (\$59.80 x 886.22 days). The cost per offender at 3.59 years is \$78,426.50 (\$59.80 x 1,311.48 days). The cost per offender at 6.17 years is \$134,727.00 (\$59.80 x 2,252.96 days). The cost per offender at 14.86 years is \$324,636.26 (\$59.80 x 5,428.70 days).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next

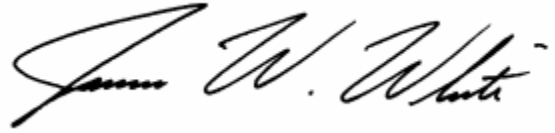
10 years. No significant incarceration cost increase will occur due to population growth in this period.

- Due to the small number of offenders, no recidivism discount has been applied for these offenses.
- One offender every five years will serve an additional 8.69 years (an increase from a Class B to a Class A felony) for rape of a child rather than attempted rape of a child. The additional cost of increasing the average sentence is \$189,909.26 (\$324,636.26 - \$134,727.00). The annualized time served is 635.15 days served (0.20 annual number of convictions x 3,175.74 days). The annualized cost per offender is \$37,981.97 (\$59.80 x 635.15 days).
- One offender will serve an additional 2.58 years (an increase from a Class C to a Class B felony) for aggravated sexual battery rather than attempted aggravated sexual battery. The additional cost of increasing the average sentence length is \$56,300.50 (\$134,727.00 - \$78,426.50).
- One offender will serve an additional 1.16 years (an increase from a Class D to a Class C felony) for incest rather than attempted incest. The additional cost of increasing the average sentence length is \$25,430.54 (\$78,426.50 - \$52,995.96).
- One offender will serve 1.63 years for the Class E felony offense of sexual battery. The cost per offender at 1.63 years is \$35,548.11.
- One offender every two years will serve 1.63 years for the Class E felony offense of soliciting sexual exploitation of a minor. The annualized time served is 297.23 days (0.50 annual number of convictions x 594.45 days). The annualized cost per offender is \$17,774.35 (\$59.80 x 297.23 days).
- One offender will serve an additional 1.16 years (an increase from a Class D to a Class C felony) for sexual battery by an authority figure rather than attempted sexual battery by an authority figure. The additional cost of increasing the average sentence length is \$25,430.54 (\$78,426.50 - \$52,995.96).
- Any impact on the caseloads of state trial courts can be accommodated within existing judicial resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" and last name "White" clearly legible, and "W." in the middle.

James W. White, Executive Director

/lsc